

State of South Dakota

EIGHTY-SIXTH SESSION LEGISLATIVE ASSEMBLY, 2011

763S0007

HOUSE BILL NO. 1198

Introduced by: Representatives Steele, Boomgarden, Brunner, Haggar, Hoffman, Hubbel, Jensen, Kirkeby, Kloucek, Kopp, Liss, Magstadt, Miller, Munsterman, Nelson (Stace), Novstrup (David), Olson (Betty), Rozum, Stricherz, Venner, and Verchio and Senators Novstrup (Al), Kraus, Lederman, Rhoden, and Tieszen

1 FOR AN ACT ENTITLED, An Act to provide for the state and local enforcement of certain
2 federal immigration laws, to criminalize the knowing transportation, concealment, or
3 solicitation of illegal aliens, and to provide penalties therefor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. No official or agency of this state or a county, city, town, or other political
6 subdivision of this state may adopt a policy that limits or restricts the enforcement of federal
7 immigration laws to less than the full extent permitted by federal law.

8 Section 2. For any lawful contact made by a law enforcement official or agency of this state
9 or a county, city, town, or other political subdivision of this state where reasonable suspicion
10 exists that the person is an alien who is unlawfully present in the United States, a reasonable
11 attempt shall be made, when practicable, to determine the immigration status of the person. The
12 person's immigration status shall be verified with the federal government pursuant to 8 United
13 States Code Section 1373(c).

14 Section 3. If an alien who is unlawfully present in the United States is convicted of a



1 violation of state or local law, on discharge from custody or assessment of any fine that is
2 imposed, the alien shall be transferred immediately to the custody of the United States
3 immigration and customs enforcement or the United States customs and border protection.

4 Section 4. A law enforcement agency may securely transport an alien who is unlawfully
5 present in the United States and who is in the agency's custody to a federal facility in this state
6 or to any other point of transfer into federal custody that is outside the jurisdiction of the law
7 enforcement agency.

8 Section 5. Except as provided in federal law, no official or agency of this state or county,
9 city, town, or other political subdivision of this state may be prohibited or in any way be
10 restricted from sending, receiving, or maintaining information relating to the immigration status
11 of any person or exchanging that information with any other federal, state, or local governmental
12 entity for the following official purposes:

- 13 (1) Determining the eligibility for any public benefit, service, or license provided by any
14 federal, state, local, or other political subdivision of this state;
- 15 (2) Verifying any claim of residence or domicile if determination of residence or
16 domicile is required under the laws of this state or a judicial order issued pursuant to
17 a civil or criminal proceeding in this state;
- 18 (3) Confirming the identity of any person who is detained; and
- 19 (4) If the person is an alien, determining whether the person is in compliance with the
20 federal registration laws prescribed by Title II, Chapter 7 of the Federal Immigration
21 and Nationality Act.

22 Section 6. Any person may bring an action in circuit court to challenge any official or agency
23 of this state or a county, city, town, or other political subdivision of this state that adopts or
24 implements a policy that limits or restricts the enforcement of federal immigration laws to less

1 than the full extent permitted by federal law. If there is a judicial finding that an entity has
2 violated section 1 of this Act, the court may order:

3 (1) That the person who brought the action be awarded court costs and attorney fees; and

4 (2) That the entity pay a civil penalty, to the state general fund, of not more than five
5 thousand dollars for each day that the policy has remained in effect after the filing of
6 an action pursuant to this section.

7 Section 7. No person may transport or move or attempt to transport or move an illegal alien
8 in this state in a means of transportation if the person knows or recklessly disregards the fact that
9 the alien has come to, has entered, or remains in the United States in violation of law. Any
10 violation of this section is a Class 1 misdemeanor.

11 Section 8. No person may conceal, harbor, or shield or attempt to conceal, harbor, or shield
12 an illegal alien from detection in any place in this state, including any building or any means of
13 transportation, if the person knows or recklessly disregards the fact that the alien has come to,
14 has entered, or remains in the United States in violation of law. Any violation of this section is
15 a Class 1 misdemeanor.

16 Section 9. No person may encourage or induce an illegal alien to come to or reside in this
17 state if the person knows or recklessly disregards the fact that such coming to, entering, or
18 residing in this state is in violation of law. Any violation of this section is a Class 1
19 misdemeanor.